IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

MFA.No. 157 of 2000(D)

O.P(MV).NO.499/1997 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA.
.....

APPELLANTS/PETITIONERS:
----

1. **DARLY ABRAHAM, AGED 32 YEARS,**
   W/O. ABRAHAM MATHEW, VADAYADIYIL HOUSE,
   PALLIPARAMBU KAVU ROAD,
   TRIPUNITHARA.

2. **MATHEW ABRAHAM, AGED 6 YEARS,**
   S/O. ABRAHAM MATHEW, MINOR
   REPRESENTED BY HIS MOTHER AND
   NEXT FRIEND DARLY ABRAHAM.

3. **SAJAN ABRAHAM, AGED 2 ½ YEARS,**
   S/O. ABRAHAM MATHEW, MINOR, REPRESENTED BY
   HIS MOTHER AND NEXT FRIEND DARLY ABRAHAM.

BY ADV. SRI.PEEYUS A.KOTTAM.

RESPONDENTS:
----

1. **JOHN.P.GEORGE,**
   PAINUMKAL HOUSE,
   PUTHIYAKAVU, TRIPUNITHARA.

2. **VIJAYAN, S/O. CHELLAPPAN,**
   PALLATTU HOUSE, EDAVATTOM KARA,
   KULASHEKARAMANGALAM VILLAGE,
   VAIKOM.

M.F.A. NO. 157/2000:

3. NATIONAL INSURANCE CO. LTD.,
MARKET JUNCTION, TRIPUNITHARA.

4. SUNIL DANIEL, S/O. DANIEL,
MECHANKARA HOUSE, KIZHAKOMBU.P.O.,
KOOTHATTUKULAM.

5. ORIENTAL INSURANCE CO. LTD.,
DEEPTHI BUILDINGS, P.B. NO. 2872,
PALLIMUKKU, KOCHI - 16.

BY ADV. SRI.P.JAYASANKAR FOR R3,
SRI.MATHEWS JACOB FOR R5.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.157 OF 2000

Dated 4th June, 2007

JUDGMENT

Koshy,J.

One Abraham Mathew employed as a clerk in State Bank of Travancore met with a motor accident on 31.10.1996. After struggling for life, he succumbed to the injuries on 7.11.1996. It is stated that he was also studying as part time student for LL.B. during the time. He left behind his young wife aged 29, two children, one aged three years and the other three months. They claimed compensation of Rs.20,00,000/=. As per the salary certificate produced, he was getting an income of Rs.7,712/=. Considering the age of the deceased and taking guidance from the schedule, the Tribunal fixed 16 as the multiplier. One third of the income was reduced and Rs.5,142/= was taken as the multiplicand and compensation was calculated. The claim petition was filed in 1997. A total compensation of Rs.10,30,264/= with 12% interest from the date of application was awarded in August, 1999. The Tribunal has granted Rs.9,87,264/= as compensation for loss of dependency. It is submitted that future prospects were not considered. If he had continued in employment, he would have got regular increments and promotions, but, vagaries of life cannot be predicted. When a person who was earning a higher income

died, compensation need not be awarded on the exact amount as provided under second schedule which is intended for victims of motor accident cases where total income is below Rs.40,000/=. Considering the total amount awarded and rate of interest granted, we are of the opinion that no further enhancement is necessary.

Hence, the appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

tks